



The Case for Diversity Management

Recommendation by the King County Civil Rights Commission to the King County Executive and County Council for an Updated Diversity Policy

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EXECUTIVE SUMMARY

Given today's work force changes and increased expectations for productivity, this policy paper attempts to identify some of the progress affirmative action programs have made and recommends an updated county policy that enhances affirmative action efforts and helps the county increase productivity and efficiency levels through a new diversity management program.

The recruitment and hiring components of affirmative action (AA) are a complex issue that has its roots in federal and case law. Affirmative action was originally intended as a temporary measure designed to eliminate discriminatory practices in hiring, housing, education, public contracting and other areas of public life.

Extensive research shows that affirmative action has contributed greatly to the progress this nation has made in ending its discriminatory practices. Minorities and women have made large gains in obtaining employment and in reducing income disparities. In the U.S., women and minority participation in the labor force increased by over 10% between 1964 and 1995. During this same period the income disparity between these groups and white males decreased by over 7%. Many Fortune 500 companies have committed to continue to work towards a diverse workforce in spite of the current debate against AA and even if the government eliminates affirmative action.

Despite this progress, our research shows that discriminatory practices are still widespread and that there continues to be a ceiling beyond which minorities, women and people with disabilities can rarely go. National research studies indicate that minorities and women are discriminated in employment hiring decisions 20-25% of the time. The Glass Ceiling Commission found that, in the U.S., 97% of all senior management positions are held by white males, and that there is an earnings disparity between equally educated women/minorities and white males of at least \$10,000 per year.

These issues have contributed to the affirmative action debate which contain many legal, social and personal concerns. This is not the proper forum to examine this debate in detail as it is too complex. However, this paper touches on the more salient points of the current debate in Section two. It is important to note that public opinion polls consistently show that the majority of people believe diversity is good and that there should be programs to help end discrimination.

If AA is to be a temporary measure, as intended, then policies should work to create an environment that reduces the need for AA. In making our recommendations for an updated County policy, we propose several policy elements to use as a benchmark for good policy. These elements address the issues above while also addressing good business practices. They are as follows:

- A policy that includes a sincere commitment to ending discrimination.
- A policy that meets all federal requirements for continued receipt of federal funds.
- A policy that has objective, business related outcomes. Policies should integrate business outcomes which include efficiency and productivity outcomes.

- A policy that incorporates continual cost-benefit analysis of discrimination complaints to use as a benchmark to determine the effectiveness of the policies in reducing discrimination.
- A policy that addresses the workplace culture and climate that fosters discrimination. Such a policy would further the original intent of AA policies as temporary measures and continue to ensure non-discrimination.
- A policy that creates an environment that is inclusive of differences. Studies show productivity is enhanced when differences are respected.
- A policy that identifies the diverse needs of the community through periodic reviews and studies, and seeks to meet those needs.
- A policy that integrates diversity objectives with excellent management practices. This allows managers to understand how to manage a diverse workforce for increased efficiency and productivity that will help to decrease the cost of government.

The Commission's review of past and present County AA Plans and the 1999 draft Plan reveal that they meet very few of these objectives. While the County has been successful in increasing the number of qualified women, minorities and people with disabilities into its workforce, it has not addressed the culture that inhibits these groups from fully realizing equal opportunity, value differences and maximizes productivity and efficiency. For an AAP to do these things, it must meet the above policy elements.

The Commission makes the following recommendations:

1. Adopt a new Diversity Management Policy as defined below.
2. Hire a temporary consultant to help develop a new countywide Diversity Management Program along with survey and assessment instruments.
3. Conduct a baseline survey of employees, customers, and the community to determine how well the County is performing in meeting diversity related objectives, employee needs and productivity/efficiency measures.
4. Develop a long term strategic plan and vision identifying outcome measures for diversity integrated with business objectives.
5. Develop and implement a "Quality Initiative" to change the County Culture from a top down culture to one where teams are empowered to come with solutions and make decisions.
6. Establish performance expectations for management and employees to implement the values of diversity and equity and to evaluate performance.
7. Maintain a results oriented Affirmative Action Plan and Equal Employment Opportunity Program designed to ensure equal opportunity for all and representation of qualified minorities, women and persons with disabilities throughout the total work force. Such plan shall meet federal requirements and assist in evaluating the effectiveness of the county's diversity management policy.
8. Conduct an analysis every three years to examine work force retention: who leaves and why. This is essential in reducing turnover costs and taking positive steps in retaining an effective work force.
9. Conduct an analysis every two years on the cost to promulgate and manage current Affirmative Action policies and the cost of employment related discrimination complaints. Maintain a tracking system of these costs for periodic reviews.

10. Conduct a wage/salary study to compare rates of pay between all employees to determine whether inequitable rates exist for employees holding comparable positions.
11. Make improvements to OHRM's CAAMS system to eliminate the need for manual input and to provide the following data: tracking of temporary employees; tracking of persons with disabilities; and tracking of white males in the work force.
12. Authorize and provide adequate funding to support the above recommendations. Consider this a priority with the expectation that the County will save money over time while increasing efficiency and productivity.

Diversity Management is a relatively new concept that is being adopted by some of the largest corporations in the U.S. It is a long term solution to a difficult problem and meets all of our policy elements. It requires a larger investment up front for higher savings over time and is the only option we have come across that can increase efficiency and productivity, promote the benefits of diversity as well as help develop a more positive work environment.

DIVERSITY MANAGEMENT DEFINED

Diversity management begins with the concept that a diverse workforce adds value for the efficiency and productivity of the agency. Policies are then established that both promulgate this value and that effectively manage the workforce to increase creativity, productivity and efficiency.

Characteristics of diversity management policies include the following:

1. Leadership support and involvement of senior managers;
2. "Effectiveness comes in different ways" operating philosophy;
3. Expanded definitions of effective performance;
4. Involvement of employee representatives throughout the planning and implementation of the diversity initiative.

Diversity Management policies hold certain assumptions:

1. Employee diversity is a competitive advantage;
2. The organization is in transition;
3. Change in the organizational culture;

Diversity management policies include the following organizational practices:

1. Diversity linked to a strategic vision;
2. Management responsibility for climate setting;
3. Systems and procedures that support diversity;
4. Ongoing monitoring of recruitment, promotion and development trends;
5. Organizational commitment to ongoing reeducation;
6. Awareness education as an organizational priority;
7. Rewards based on results;
8. Reinforcement of the value of diversity in hiring and promotions;

9. Interventions into business practices that undermine an inclusive organizational culture.

Many studies have shown that employees will work harder, use less sick leave and stay with the agency longer when their opinions, ideas, and work are valued and rewarded, and when different perspectives are recognized as contributing to creative problem solving. Similar studies have shown that corporations with a good record of diversifying their staff obtain better productivity, better financial returns on investments and have less employee turnover costs. Thus our recommendations for the County to adopt a Diversity Management policy is one to help begin reducing the cost of government as well as ensure equal opportunity for all throughout the organization and its culture.

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INTRODUCTION

The King County Council authorized the King County Civil Rights Commission in Ordinance #12058 in November, 1995. The Commission was charged with taking a leadership role in the community to raise community awareness and involvement in civil rights issues and to act in an advisory capacity to the Council and the Executive. Contained in the Ordinance was an additional charge: to complete a policy analysis of the County affirmative action policies and programs in light of the County's current level of diversity, community needs and opinions, and to recommend an updated affirmative action policy. This analysis focuses on the County's affirmative action efforts in employing women, minorities, and persons with disabilities in its work force.

General work force changes stemming from skill labor shortages, demographic shifts, and expanding global economies are forcing U.S. employers, both private and public to move beyond traditional hiring and retention practices in order to maintain competitive edges and meet expectations for productivity increases. While affirmative action programs have helped establish fair hiring standards and made progress in creating more opportunities for minorities and women, a more holistic and comprehensive approach is needed to ultimately meet the strong policy objectives of equal opportunity and to help employers effectively meet challenges arising from work force changes. This policy paper identifies some of the progress affirmative action programs have made and recommends an updated county policy that enhances affirmative action efforts and helps the county increase productivity and efficiency levels through a new diversity management program.

This analysis has three sections:

- Section one examines affirmative action in its historical and legal contexts. It then reviews employment statistics and the current literature to see what benefits have accrued from affirmative action and whether it has been successful in ending employment discrimination.
- Section two looks at the recruitment and hiring components of affirmative action in its social context by examining the current affirmative action debate and analyzing the more salient issues of the debate.
- Section three presents the Commission's findings and recommendations including a discussion on diversity management and recommendation for the adoption of a new diversity management policy.

METHODOLOGY

The debate about Affirmative Action (AA) centers around its recruitment and hiring practices. It exists on both local and national levels with the boundaries overlapping. The national studies we present encompass King County while also encompassing other parts of the country. In this analysis we examine the literature of the AA debate and look at both the national and local data in terms of how well we have succeeded in ending discrimination. We extrapolate the issues in the debate and the national trends to King County and to King County government while trying to use King County specific data

when available. This gives us a historical, legal and social context for our analysis and our recommendations.

The Commission also looked at reports, studies and materials on Diversity Management, discrimination studies, the Glass Ceiling effect, pay disparities, etc. We have examined the Affirmative Action Plans that King County and Metro have used in previous years, the current 1997-1999 AAP and the proposed 1999-2000 AA draft Plan. We have also examined King County and Metro employment statistics and profiles. We also interviewed various people working in County government to supplement our examination of County documents. These are then overlaid with national statistics and trends and King County government is compared to national data. This data provides specific information about KC government and is used as a basis for our recommendations.

Most of the national literature and statistics that we could find focus on Blacks and women. The few statistics we could find that included Hispanics, Native Americans and Asians relatively followed the same trends as those focusing on Blacks and women. As a result, we believe that the research statistics contained herein apply to all minority groups. We were unable to locate literature on how well people with disabilities have fared in the national workforce. We believe the experiences of people with disabilities are similar to those of women and minorities.

SECTION ONE

In this section we look at Affirmative Action in its historical and legal contexts. We then examine King County Affirmative Action policies and look at the results both nationally and locally.

WHAT IS AFFIRMATIVE ACTION?

The phrase *affirmative action* is broad and often misunderstood as it is frequently equated with “quotas”. Daniel Seligman gives us a definition that has four tiers: (1) non-discrimination; (2) policies such as recruitment, job training and remedial education designed to increase the pool of qualified applicants; (3) goals and timetables which are *flexible* numerical hiring objectives; and (4) court ordered hiring objectives to address specific acts of discrimination. These are commonly referred to as “hiring quotas” (Weiss, 1997).

As a recipient of federal funds, King County is required to have an Affirmative Action plan consistent with federal guidelines. Such a plan must include:

- a. Commitment and action to achieve equal employment opportunity
- b. Comparison's of the availability of the workforce and the representation of the County workforce
- c. If there are gaps present, initiate a proactive corrective hiring program.

WHY AFFIRMATIVE ACTION?

King County affirmative action policies have their roots in the federal legislation and court decisions that resulted from a social and cultural context. In order to analyze KC policies we must first take a look at the framework from which they operate.

Affirmative action is aimed at the entrenched attitudes, behavior, and institutional arrangements that perpetuate the denial of equal opportunity to minorities and women. It is based on the reality that in the absence of conscious, deliberate efforts to assure equal opportunity, the legacy of past discrimination will be reinforced by contemporary actions. The expectation is that by pursuing the special measures of AA temporarily, attitudes, values, and behavior will change in ways that redress the imbalance against population groups who are excluded from full participation in the job market (Anderson, 1994). Historical exclusion was evidenced by:

- Employers that specifically excluded minorities, women and people with disabilities;
- Newspaper ads that were segregated by gender; and
- Earnings and employment disparity:
 - In 1959 the average Black man with a college degree earned less than the average White man with an eighth grade education (Mosley & Capaldi, 1996).
 - In 1960, Blacks represented less than 3% of telephone operators, firefighters, accountants and auditors, secretaries, and attorneys (Mosley & Capaldi, 1996).

It was only with mandated recruitment and hiring components of Affirmative Action programs that this segregation and discrimination began to change (Mosley & Capaldi, 1996).

Why were minorities historically excluded? The Supreme Court in Plessy v. Ferguson (163 U.S. 537) echoed the values of the country in 1896 when it set the “separate but equal” standard. The language of this decision allowed institutions to treat non-whites both separately and as inferior. This separation was acculturated in all parts of life. Banks, for example, believed that white people did not like black tellers handling their money and so excluded blacks from banking positions. Fire and police departments believed that both whites and minorities and males and females could not work together in dangerous situations. (Mosley & Capaldi, 1996) (One method police and fire departments used to discriminate was to require all applicants to be at least six feet tall. This automatically excluded a majority of women and Asians.) These values were finally challenged in 1954 when the Supreme Court struck down its previous “separate but equal” clause in Brown v. Board of Education (347 U.S. 483). This set the stage for other civil rights legislation and further court decisions.

LEGAL ROOTS OF AFFIRMATIVE ACTION

Legislation and Executive Orders

In response to the national movement to readdress the harm that minorities suffered by being excluded from employment, housing and education, the Civil Rights Act of 1964 was enacted. Although some legislators believed that including women in the proposed legislation would cause its defeat, the bill still passed. This Act prohibits discrimination in voting, public accommodations, public education and employment. Title VII of this Act sits at the core of federal employment discrimination law and prohibits discrimination by employers (whether they have government contracts or not) on the basis of “race, color, religion, sex or national origin”. This Act was strengthened by President Nixon in 1972. Title VII specifically states that nothing in the Act is designed to “grant preferential treatment to any group because of race, color, religion, sex or national origin.”

In 1965, President Johnson issued Executive Order #11246 which applied to federal contractors and subcontractors and required those employers to “take affirmative action to ensure that applicants . . . and employees are treated . . . without regard to their race, color, religion, sex or national origin.” Affirmative action plans created pursuant to this order were to be overseen by the then newly created Office of Federal Contract Compliance Programs (OFCCP). King County is one such federal contractor and subcontractor with over \$900 million in federal funds in 1997.

Supreme Court Rulings

Case law has developed much of the framework for anti-discrimination law. One important legal standard introduced by the Supreme Court in Griggs v. Duke Power Co (401 U.S. 424, 1971) is the “disparate impact” concept. Under “disparate impact”, discriminatory intent is inferred from the race or gender make-up of the workforce, i.e., a black man no longer had to prove discrimination against him specifically but could prove discrimination

by a showing that a specific employer's workforce was overwhelmingly white in a community that was largely mixed. After Griggs, plaintiffs in Title VII actions began to use workforce statistics to uncover the more subtle forms of discrimination which would manifest themselves in under-representation. In 1991 President Bush signed the 1991 Civil Rights Act which codified the "disparate impact" law.

White males have filed reverse discrimination against race and gender conscious programs. These cases make up only 3% of all federal discrimination cases with most being dismissed (Daily Labor Report #147, 1995). In each reverse discrimination case heard by the Supreme Court, the principle of Affirmative Action has been upheld. The most significant reverse discrimination case to date is the Regents of the University of California v. Bakke (438 U.S. 265, 1978) case. Although the court ruled that the University could not set aside a specific number of slots for minority students, it could give consideration to race in future admissions procedures. The Court stated that increasing the racial and ethnic diversity of the student body constitutes a compelling interest, because it enriches the academic experience on campus. There are no significant Supreme Court cases related to AA in employment as most of them relate to AA in public contracting (see City of Richmond v. J.A. Croson Co and Adarand Constructors, Inc. v. Peña).

Washington States Initiative 200 (I-200)

In 1998 the voters of Washington state voted for Initiative 200 which provides: The state shall not discriminate against, or grant preferential treatment to any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting. The Initiative defines "public" as including County government. It amends state statutes but does not repeal or amend previous statutes making it difficult to interpret. However, Initiative backers do agree that aggressive outreach and recruitment of women and minorities is a valid tool to use to diversify a workplace.

KING COUNTY'S AFFIRMATIVE ACTION POLICIES

King County's affirmative action policies are based on federal law, case law, and the Washington State Initiative as discussed above. Executive Order #11246 provides the most detailed framework within which the County AAP must fit, if it is to continue to receive federal funds. In addition, there are many other laws, and case law, both federal, state and local that the County complies with and uses as a basis for its affirmative action policies.

Goals of Past and Present Policies

In addition to meeting federal and legal requirements, King County made a social commitment to Affirmative Action in the late 1970's. Thus they began developing Affirmative Action Plans (AAP) with the goals of:

- 1) Diversifying the applicant pool through recruitment and outreach initiatives:

Recruitment and outreach have been the major component of all the County AAP's the Commission reviewed. Under this component the County has established recruitment programs aimed at women, minorities and people with disabilities. These take the form of outreach in the community, developing liaisons with community agencies and recruitment at the local colleges.

Another method that has been historically used to help diversify the workforce is the Selective Certification process. This process provided a hiring Supervisor with a referral list inclusive of qualified and competitive underrepresented candidates to consider for hiring. Although the process was decentralized in 1997 and became voluntary, it has been completely disbanded with respect to minorities and females after passage of Initiative 200.

In addition to these recruitment and hiring programs, the County has a smaller program aimed at developing a pool of qualified candidates for promotional positions. These take the form of internship, apprenticeship and bridge programs. This activity has been a small component of the AAP's we reviewed.

2) Meeting the federal criteria of Executive Order #11246:

This is the most visible component of the County AAP's. Under this component, the County analyzes the local workforce to ascertain availability percentages of women and minorities. They then analyze the makeup of their staff to see if they reflect the same percentages of women and minorities as are in the larger community. This data is calculated on an annual basis and compiled into an annual Report and placed on file for federal auditors.

3) Creating a workplace free of discrimination:

Under this component, the County has done periodic analysis of its hiring and testing practices to ensure that they are free of discriminatory effect and practices. One example of this is the promotional test for the County's Public Safety Department (police force). In 1988, the County determined that the status of women and minorities in its police force were not comparable to those in the City of Seattle or other regional police forces. In fact, at that point a period transpiring almost ten years, had passed since the County's PSD promoted a minority officer to the rank of sergeant. After a new, and more job related promotional test for sergeants was developed and adopted, more qualified minorities and women in 1989 began to be promoted including the first Asian-American and first African-American female sergeants in the history of the department.

King County 1997-1999 AAP

The 1997-99 AAP continues to use recruitment and outreach as its main tool to diversify its workforce. This is also the first time that King County and Metro are combined into one AAP which has created some challenges. The main challenge relates to the fact that the two entities have two different payroll systems, making it difficult to produce accurate affirmative action reports as well as other reports such as employee movement.

King County 1999-2001 AAP Draft

The 1999-2001 AAP Draft continues a strong focus on recruitment and outreach. The challenges of different payroll systems and the ability of the computer programs to sort out employee data continue. It is hoped that most of these issues will be sorted out in late 1999. Initiative 200 also present new issues for 1999. Although the County hires only qualified women and minorities, it now must make special efforts to avoid an appearance of preferences per I-200. To further this goal, Executive Ron Sims has eliminated Selective Certification with respect to all minority and female hiring.

RESULTS OF AFFIRMATIVE ACTION POLICIES

Affirmative Action policies have had many positive results both nationally and in King County. Since most of the literature on AA results relate to national statistics we have included these results along with King County.

National

Changes in our workforce are a result both of changing social attitudes and affirmative action policies. Studies conducted nationally show that affirmative action policies have had direct benefits for ethnic minorities and women.

- A Rand study in 1987 concluded that “AA has resulted in a radical re-shuffling of black jobs in the labor force”. The study found that recruitment and hiring components of AA shifted black male employment toward EEOC covered firms and industries in entry level, professional and managerial positions (Anderson, 1994).
- An unreleased study conducted by OFCCP in 1984 concluded that minorities and women made more employment gain in companies with AA Plans. The OFCCP studied 77,000 firms covered by Executive Order #11246 and found that:
 - Minority employment increased by 20.1% (during the period 1974-80) compared to total employment growth for blacks of 12.3%.
 - Female employment grew 8.2% compared to total employment growth of 2.2% during the same period (Anderson, 1994).

The integration of minorities and women into the workforce during the past 30 years is dramatic.

- During the period 1983-1992 there was an increase of 16,764,000 jobs. Blacks and Hispanics obtained 35% of this total increase (Daily Labor Report, 1995).
- Women’s employment to population ratio jumped from 35.5% in 1964 to 54.7% in 1994 (Daily Labor Report #147, 1995).
- Where Black representation was under 3% in 1960 in positions such as telephone operator, fire fighter, accountant, secretary, and sales, their representation increased to over 9% in each of these job categories by 1993 (Mosley & Capaldi, 1996).

Income disparities also decreased. Black men with a college degree who earned 69% of what their white male counterparts did in 1959 earned 73.5% of what white males did in 1995. Women who earned 59.7% of what white men did in 1979, earned 71.4% of what white men did in 1995 (IWPR, 1997).

King County

King County saw similar trends. Diversifying the police department, promotions in the Department of Adult Detention, using selective certification to broaden pools of qualified minorities and women for consideration, and hiring affirmatively into exempt positions were all a direct result of AA and the County’s commitment to diversifying (Staff Interviews). Thus the general trends found in these national studies were also found in King County.

King County Trends

Chart #1 gives us a comparison of the KC workforce between 1987 and 1995. The increase of women and minorities during this eight year period is significant. These are the direct results of the County's commitment to affirmative action and the federally mandated affirmative action plans.

Chart #2 shows the new KC government as a mixture of KC and Metro. As this chart reveals, Metro's workforce is predominantly white male. At the same time, Metro has a far higher percentage of minority males than KC. These statistics reveal significant disparities that the new County government should explore and examine.

Due to the merger and the resulting difficulty of putting data together, the County did not produce a 1996 report on its progress in diversifying. These statistics reveal, however, that the gains made by KC between 1987 and 1995 may be compromised by the merger.

Chart #1

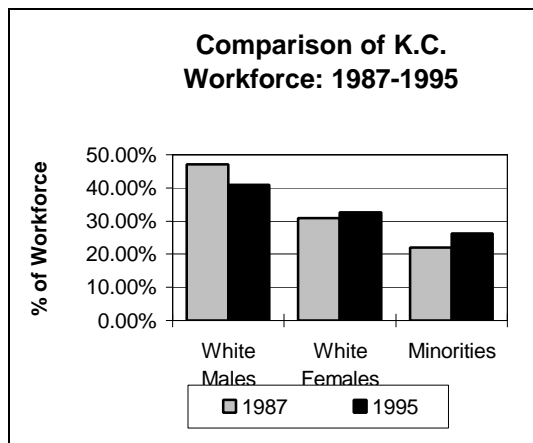
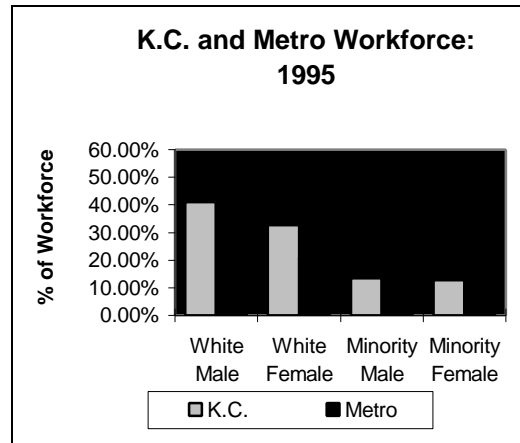


Chart #2

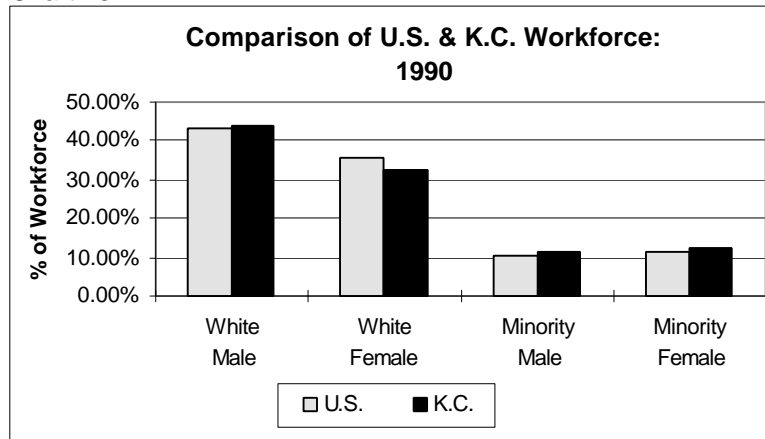


Source: 1995 Annual Affirmative Action Report for both Metro and King County

King County Comparisons

Chart #3 gives a comparison of the 1990 general U.S. workforce to King County government. This chart reveals that the County has a higher percentage of minorities, both male and female than the U.S. workforce. It also reveals that the County has a higher percentage of white males and a lower percentage of Caucasian females than the U.S. workforce.

Chart #3



Source: *The Glass Ceiling Commission / 1991 K.C. Annual Affirmative Action Report.*

Chart #4 and #5 show the comparison of KC to City of Seattle. Since King County is home to the City of Seattle, the two governments can use each other as “benchmarks” as to how well they are able to attract quality minority and female workers. An analysis of these charts shows K.C. does better than Seattle in hiring women while Seattle does better at hiring minorities. In addition, both governments have active recruitment for people with disabilities. K.C. has been more successful as 4.16% of their workforce is comprised of people with disabilities compared to 3.72% of Seattle’s workforce.

Chart #4

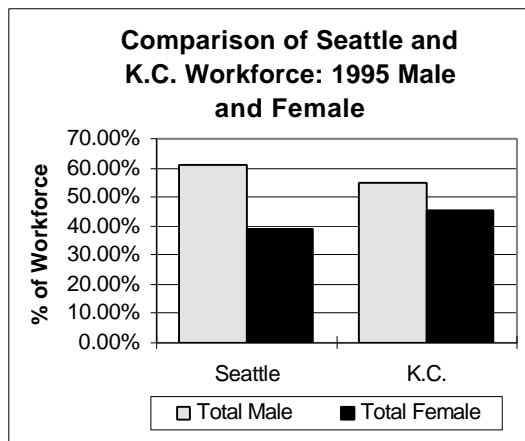
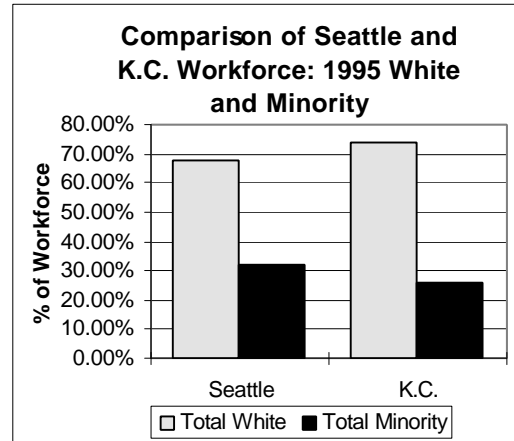


Chart #5



Source: *1995 Annual Affirmative Action Report for King County and the 1996 City of Seattle Affirmative Action/Equal Opportunity Work Plan.*

King County and the Glass Ceiling

The 1995 Glass Ceiling Commission¹ discovered that women, minorities still have difficulty moving into senior management positions. Chart #6 and #7 compare 1990 U.S. data for “Executives, Managers and Administrators” in Public Administration with 1995 K.C., Metro and the City of Seattle data. (There was no 1995 data available for the U.S. workforce.) Although the numbers cannot be matched exactly, they do show U.S. trends.

¹ The Glass Ceiling Commission was established by President Bush and legislatively sponsored by Senator Dole. It’s purpose was to study how well women and minorities were doing in promoting into management and executive positions and the effects of their movement on corporations and the nation.

The charts show that the County is predominantly male in comparison to both the City of Seattle and the U.S. The County, however, exceeds the general U.S. population in hiring of minorities into Officials and Administrators categories.

Chart #6

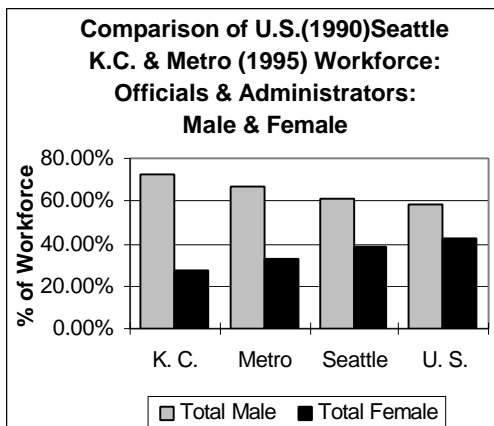
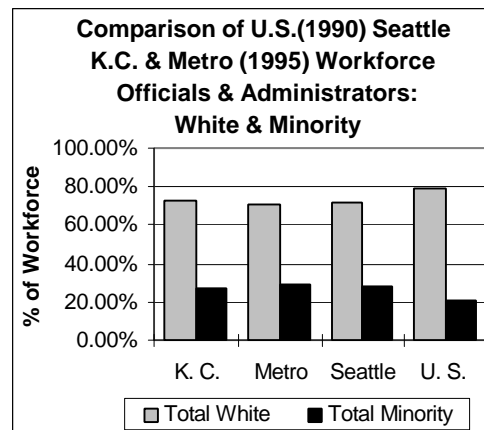


Chart #7



Source: 1995 Annual Affirmative Action Report for K.C. and Metro, the 1996 City of Seattle Affirmative Action/Equal Opportunity Work Plan, the Glass Ceiling Commission, 1995.

County Discrimination Complaints

In addition to employment results, the Commission looked at County discrimination complaints as a measure of discrimination and harassment after a person is hired. The data for King County has been limited. However, a 1990 study by the Myriad Company showed that the Metro organizational structure and management practices did not support diversity or affirmative action. Discrimination was condoned and complaints of discrimination often were responded to with corrective action against the complainant (Myriad Systems & Services, 1990). Although Metro did adopt Myriad's recommendations, there has been no tracking to see how well Metro has improved. Although Metro is now incorporated into K.C. and under new mandates for managing diversity, it is unclear how much of the old Metro philosophy is still held by senior management.

Employment related discrimination complaints are extremely difficult to track in the current County system. Many of these end at the Department level while others go to the Office of Civil Rights Enforcement (OCRE) or to the state or federal civil rights enforcement agencies. The number of complaints going to the OCRE have ranged from a high of 46 in 1993 to a low of 14 in 1996. Closures of employment discrimination complaints in 1996 resulted in 33% withdrawn with settlement, 41% closed under "other", 7% closed with pre-finding settlements and 19% closed due to no reasonable cause. (K.C. Office of Civil Rights Enforcement, 1997). All of these cost the County money both in terms of FTE's expended on the problem and in terms of financial settlements.

The Commission was unable to obtain figures of the cost of these complaints to the County. The Commission believes that the nature and the cost of these complaints should be tracked. By tracking the nature of these complaints, the County could take affirmative steps to reduce their numbers. By tracking their costs the County would be able to do a benefit cost analysis of new strategies to manage diversity in the County. The

Commission recommends that the County institute tracking measures as soon as possible. These would track all types of employment related discrimination complaints to include the cost of the time it takes an employee to handle the complaint (even the small ones that are handled at the department level) and the financial settlements that take place at the County level and at the Court level.

HAVE AFFIRMATIVE ACTION PROGRAMS ENDED DISCRIMINATION?

Affirmative Action is a temporary measure that grew out of the civil rights movement and was meant to rectify the discrimination resulting from the subjugation and segregation of women and people of color. It was temporary because its crafters believed that we, as a society, would soon lay aside our bias and our “isms” and begin to respect people for who they are. Some people point to the gains in employment made by these groups and believe that the laying aside of bias has finally happened. Others disagree and can point to rampant discrimination being practiced today.

King County has made progress towards ending discrimination as shown by the increased representation of women and minorities in it's workforce. In addition, there are more and more businesses that are successfully promoting diversity. However, research shows that there remain significant discrimination behaviors in all facets of society.

Positive Business Results

Many businesses now believe that diversity is a positive measure for profitability. A 1985 survey in *Fortune* found that 90% of corporations polled stated that they would retain hiring goals and targets even if they were not legally required to do so (Weiss, 1997). This was reaffirmed by a similar 1994 poll conducted by Organization Resource Counselors, Inc. Seventy percent of the CEO's polled stated they would continue to use numerical objectives to track the progress of their diverse workforce, regardless of whether the federal government eliminated such requirements (Daily Labor Report, 1995). Many business organizations opposed Proposition 209 (the CA measure banning affirmative action) in California, including the California Business Roundtable and the LA Business Alliance. Corporations like Xerox, Proctor & Gamble, Digital Equipment, IBM, Honeywell, Hughes Aircraft and Corning have all committed to Diversity Management that includes retaining AA numerical goals. DuPont, for example, set goals higher than those suggested by OFCCP because the numerical goals are one of many useful tools for measuring their success at Diversity Management (Anderson, 1994).

Continuing Discrimination

On the other side of the spectrum, many businesses are not interested in diversifying. This is evidenced by research results. One respected method to isolate the prevalence of discrimination is to use “random sampling”, in which individuals compete for the same job, apartment or other goal. Some of these research studies are specific to a region or locale while others are a sampling of many locales across the country. Research studies include the following:

- The Fair Employment Council of Greater Washington, Inc. conducted a series of employment related studies between 1990-92 revealing that blacks were treated significantly worse than equally qualified whites 24% of the time and Latinos were treated worse than whites 22% of the time (Report to the President, 1995).
- The Urban Institute's Employment and Housing Discrimination Study in 1991 matched equally qualified white and black subjects who applied for the same jobs or visited the same Realtor. Twenty percent of the time, white applicants advanced further in the hiring process than equally qualified blacks. In housing, both black and Hispanic testers faced discrimination about 50% of the time (Report to the President, 1995).
- The Justice Department has conducted similar investigations to uncover housing discrimination. They discovered that whites are more likely to be shown an apartment while blacks, with equal credentials, are told nothing is available (Report to the President, 1995).
- In 1990, the Urban Institute sent 10 white male and 10 black male college students to apply for jobs advertised in the Washington Post and Chicago Tribune. Both groups were trained in interviewing skills and carefully matched in terms of age, education, physical size, experience, articulateness and other characteristics. Based on some 476 job searches, they found that in 20% of the searches, blacks were denied the opportunity to submit an application, a job interview and a job offer. In only 7% of the cases were whites treated less favorably than blacks (Koretz, 1991)
- Researchers with the National Bureau of Economic Research sent comparably matched resumes of men and women to restaurants in Philadelphia. In high priced eateries, men were more than twice as likely to receive an interview and five times more likely to receive a job offer than woman testers (Report to the President, 1995).

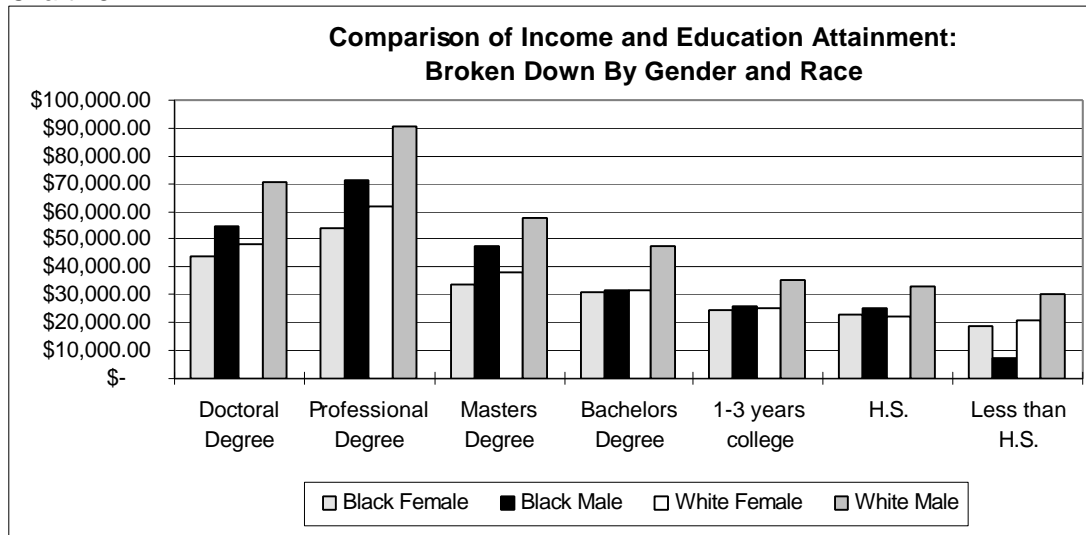
Disparities Continue

The Glass Ceiling Commission reported:

- White males continue to hold 97% of senior management positions in Fortune 1000 companies where only .6% of senior management are Black, .3% are Asian and .4% are Hispanic.
- There are only 2 women CEO's in Fortune 1000 companies.
- The fears and prejudices of lower-rung white male executives were listed as a principal barrier to the advancement of women and minorities (Glass Ceiling Commission, 1995).

Chart #8 shows the income disparity for men and women and blacks and whites when controlling for education. As you can see, a white male earns significantly more than both minorities and women even with the same education.

Chart #8



Source: Glass Ceiling Commission, 1995.

These studies and statistics relate to us nationally and can be extrapolated to the county, in general. We do not however have any studies done in King County government specifically. The Commission recommends that similar studies be conducted and that efforts be made to ascertain whether income disparities between white males and women, and minorities exist, and to ascertain whether equally qualified candidates experience disparity in hiring opportunities and practices.

The existing studies reveal that we, as a nation, have not laid aside our biases and “isms” toward women and minorities. Although there have been large advances made by both women and minorities in obtaining employment, there are also large income disparities between these groups and white males, despite equal qualifications, and even larger disparities when it comes to promotions in senior management positions. These disparities and the discrimination discussed above must be taken into consideration when we analyze the gains in employment made by these groups.

SECTION TWO

Section One looked at the historical and legal roots of AA and then went on to look at the results of 30 years of AA policies on the national level and at King County in recent years. Section two examines the social aspects of AA and how they must be considered for an updated diversity policy.

CONVENTIONAL WISDOM: THE AFFIRMATIVE ACTION DEBATE

It is clear that AA and non-discrimination laws have had an overall positive effect. They have helped to reduce discrimination, to increase representations of people of color, people with disabilities and women in the workforce and they have helped to serve as a catalyst to increase mutual respect. Most would agree that these are desirable changes in an effort to create communities that value fairness, equity and respect. Surveys, both national and local, consistently show that these are values held by most people and that diversity is a desirable characteristic of our communities:

- A Washington state poll, sponsored by the Ford Foundation, in March, 1997 found a large majority of Washington residents believe diversity is essential for our colleges and that a diverse student body has a positive effect on education (King, 1997).
- A 1995 CNN/USA Today poll administered nationally found that a full 61% of respondents believe that AA policies are “good in principle” but need to be reformed while only 22% of respondents wanted to scrap AA policies and 8% would retain them as is (Marshall, 1995).
- A 1995 national poll by Louis Harris found that the wording of a poll tells all. While 81% of adults favored the California Proposition 209 “as written”, only 30% supported a “passage that discourages or ends affirmative action programs that help women and minorities achieve equal opportunities in education and employment” (Daily Labor Report #147, 1995).
- The recent defeat of the effort to repeal affirmative action in Houston demonstrated that accurate wording is more likely to surface the true sentiments of the voters. The Houston ballot explicitly asked voters about amending the City Charter “to end the use of Affirmative Action for women and minorities” in employment and contracting, “including the current program and any similar programs in the future”. This Initiative was defeated by 55% of the voters.

Clearly there is strong support for diversity but a lack of common agreement as to whether AA laws are the desirable way to bring this about. There is also debate as to whether these laws have reached a plateau and are no longer useful or necessary. We live in an era where more and more blue collar jobs are being outsourced to other countries, leaving fewer, low skill jobs that pay a decent wage. The jobs that are left are high tech jobs that require some college training. This has created more competition for jobs and for college entrance which has served to intensify the AA debate. This debate has thus become a central issue to more and more people.

This is not the proper forum to examine this debate in detail as it is too complex an issue. Volumes have been written on the subject. However it is important to discuss the more salient issues of the debate if we are to look at King County AA policies. A recommendation to update KC policies should consider the differing values held by the residents of KC as much as possible.

This report will discuss three of the more prominent opinions on Affirmative Action:

Opinions of Those Who Oppose Affirmative Action

Opponents of AA believe that the majority of AA hiring practices involve people who do not qualify for the job and thus go against Title VII of the 1964 Civil Rights Act. (note: This has not been shown to be true in King County.) They interpret the flexible numerical goals and timetables as quotas and thus a requirement to fill a certain number of slots with a minority or woman. The recruitment and hiring components of AA laws cannot be used as quotas. These are strictly limited to court ordered sanctions. Opponents also criticize the court system. The court considers many factors when ruling on discriminatory cases including the disparate impact theory. Critics of AA consider this theory invalid. They believe that this results in reverse discrimination and that the courts have substituted "equality of result" for "equality of opportunity".

Opinions of Those Who Consider Economic Disparity as the Major Issue

Many people feel that AA has had many positive effects and that the time has come for us to focus on economic disparity issues. This disparity between the rich and the poor continues to widen and affects both people of color and whites. Inner city schools spend 50% less dollars on students as suburban schools do (ACLU, 1997) thus making it harder for inner city kids to compete in a changing job market that emphasizes high tech skills. The movement of industry and manufacturing away from inner cities has limited job opportunities for those who still live there. These issues are the more salient ones for people with this opinion and will have long reaching effects for both minorities and whites as they try to enter the future workforce (Greider, William, & Steele, Shelby, 1994).

The economically poor generally do not have the minimum qualifications for most jobs so do not benefit from AA policies. The 1990's require that we build coalitions to address issues like full employment policies, job skills training, education reforms, child care and health care legislation. These issues touch on the lives of all people: women, men, people of color, Caucasians and people with disabilities.

Corporate leaders have expressed concerns about the potential weakening of the U.S. competitive position if we fail to confront the growing shortage of skilled workers. These concerns have led to a heightened awareness of the consequences of a poor educational system and joblessness. Many of the new jobs will require higher levels of training and education at the very time when our public schools are graduating too many students who can barely read or write. Colleges and businesses are expanding remedial education programs to bring students up to a high school level of reading and writing.

Opinions of Those for Retaining Affirmative Action Programs

The statistics discussed in Section 1 of this paper relating to *Results of Affirmative Action Policies* indicate the significant number of people of color, people with disabilities and women who have been hired, retained and promoted into jobs in the last 20 years as a direct result of AA laws. This is the only proven governmental program that has increased the diversity within the U.S. workforce. Many are concerned that these results would begin to diminish if AA laws were dismantled. They believe that too many people will only hire for diversity if it is in their best interest, i.e. if it is a condition of receiving federal funds. They feel this lack of trust is warranted by the continuing examples of discrimination and harassment that exist in all walks of life and in all communities today.

Supporters of AA look at college preferences given to athletes, veterans, children of alumni and students from small towns and wonder what the issue is when colleges also want to give preference to obtain a diverse student body. Almost 20% of all Harvard admissions are for children of alumni. Studies have shown that the entrance scores of this group are lower than the entrance scores of the general student body and are predominantly white (Hacker, 1994).

Many people in this community can testify that discrimination and harassment are alive and well today. The research discussed earlier in this paper points to encounters that people of color face on a daily basis and in all parts of their lives. It also shows that most jobs are by word of mouth. In other words, a person of color would have to live near an employer or socialize in the same circles to get a job. If this employer is a white person, it is difficult for a black person to socialize in the same circles or live in the same neighborhood. Laws that have historically kept blacks out of white neighborhoods have only recently been changed. Social clubs that exclude blacks and women have been even more reluctant to include blacks or women. These areas of discrimination have indirect, but large, effects on employment.

Employers who are uncomfortable with diversity tend to hire people who look and behave like themselves. Thus the sad reality for many minorities and women is that, if they are to get a job, they must compromise their integrity and become an actor or actress and act like a white male. Unfortunately, the result of these practices leads businesses to miss out on the creativity, ingenuity and abilities of their minority and women employees.

All evidence points to the fact that Affirmative Action is grounded in meritocracy. People hired under AA laws equal or outperform their white male peers. However, some employers have been unable to keep up with the changes in workplace demographics. Many still hold dated performance standards that do not fit with the changing workforce.

SECTION THREE

COMMISSION FINDINGS

Elements of AA Policies

The Commission's analysis of the County's Affirmative Action policies in light of its historical, legal and social contexts reveal both laudable outcomes and severe deficiencies. The County has been successful in some aspects:

- 1) Social commitment to AA that has resulted in a sincere effort to hire women, minorities and people with disabilities.
- 2) A Policy that meets federal requirements for continued receipt of federal funds.
- 3) A commitment to persons with disabilities that has resulted in significant gains in their employment.
- 4) A workforce that comes close to meeting the County goals for women and minorities.
- 5) Progress towards making employment processes job related and valid to the benefit of all employees.
- 6) Progress towards making employment recruitment processes that are open and inclusive of all applicants.

The County has been less successful in other aspects:

- 1) There are no business related outcome measures such as: contributing to the efficiency and productivity of the workforce or reducing the cost of government. All of the outcome measures focus solely on workforce representation.
- 2) There have been no cost-benefit analysis done on AA policies and/or discrimination complaint related issues. The County does not know how effective or ineffective its policies are in addressing discrimination.
- 3) The policies do not address the culture and climate that fosters discriminatory attitudes and consequently, in part, perpetuates the continuing need for AA policies. In short, the policies act to further AA as a permanent program rather than one that can eventually be done away with.
- 4) The policies do not work to create an environment that is inclusive of difference. Studies show that productivity and efficiency is lower where differences are not respected.
- 5) Even though there are measurements of how diverse King County is, there are none addressing whether their diverse needs are being met.
- 6) The policies are not integrated with other aspects of County management. By remaining a separate element of a manager's functions, there is little understanding on the part of management as to how good management of a diverse staff can result in increased productivity.

The Commission believes that any policy that addresses diversity issues will encompass all of the above aspects.

Policy Options For King County

The County has many options available to address diversity issues. In section two we discussed the more prevalent social opinions about affirmative action. In this section we will briefly analyze each of these as a possible option for the County. We will then present yet another option that we have found to be the only option to meet all of the above policy criteria.

Option 1: Discontinuing Affirmative Action in County Hiring

This is really not a viable option as the County is in no financial position to eliminate AA from its current policies. The County currently receives about \$900 million from the federal government as a contractor and subcontractor. All these funds are subject to the County maintaining a viable AA Plan. If the County eliminated these policies, these funds would be subject to increasingly severe sanctions.

King County has been successful in promoting the recruitment and hiring components of its AA program without being discriminatory or unconstitutional. King County Code requires open competition and merit based hiring and only those who are qualified for a position are available for consideration. The County does not award preference points to women, minorities or persons with disabilities (the County does give preference points to Veteran's, however). The Selective Certification tool has been eliminated for all minority and female hiring.

If the County were to eliminate these policies, it would eliminate this assurance that applicant referrals are diverse and the incentive for managers to diversify their staff. In effect, it would undo a 30 year social commitment on the part of King County. The County's current Affirmative Action Plan continues to identify areas of work force under-utilization for minorities, women and persons with disabilities.

Option 2: Replacing Affirmative Action With Programs to Eradicate Poverty

This issue is an extremely large one and would require the financial cooperation of all governmental levels: federal, state, county and city. The cost of maintaining a viable AA program is minimal in comparison with the cost of eradicating poverty.

The same issues outlined in Option 1 above also apply to this option. The County would still have to comply with federal requirements for receipt of federal funds. The County would still have to assure that its management staff have incentive to diversify the County workforce. The eradication of poverty is a valuable and long term effort and we encourage the County to collaborate with public, private, and non-profit agencies toward this end.

Option 3: Retaining Recruitment and Hiring Components of Affirmative Action

The statistics discussed earlier in this paper point to the positive effects of the County AA programs in diversifying the County workforce while also pointing out the remaining problematic categories. Clearly the County AA programs have proven to aid in diversifying the workforce. And, clearly, these programs have not been able to eradicate

discrimination or the need for a recruitment and hiring program that provides managers with the tools and incentive to diversify their staff.

The cost to maintain these programs is very low. In 1996 these programs cost the County \$109,255. The productivity benefits of a diverse staff, reduced levels of discrimination complaints and the benefit of a social commitment to the community clearly outweigh this minimal amount to maintain an AA Plan.

Option 4: Maintaining Affirmative Action While Adopting Diversity Management Policies

An affirmative action plan is a necessary component of any diversity policy. Not only does it meet the federal requirements for receipt of funds, but it has provisions for the continual review of employment practices; provides for an annual analysis of the workforce; and has recruitment aspects that are invaluable for increasing the talent pool of potential employees, etc. When we talk about Diversity Management, we assume that these elements are being maintained within the policy.

Diversity Management is a new concept that is being adopted by some of the largest corporations in the U.S. It is a long term solution to a difficult problem and meets all of our Policy Elements. It requires a larger investment up front for higher savings over time and is the only option we've come across that can gain maximum efficiency and productivity out of a workforce.

Since this is such a new and different concept, we will spend some time defining it and discussing its successes.

Diversity Management Defined

Diversity Management brings a new set of assumptions with the key assumption being "that all individuals are unique" (Kossek & Lobel, 1996). Diversity management links this "uniqueness of the individual" with the business potential for enhanced performance and the promise of greater creativity and responsiveness to the community. **Efficiency, competition and profit then become the reason to invest in the increasing potential of everyone, whether they are a protected group member or not.**

The following metaphor by Roosevelt Thomas, a nationally recognized diversity management proponent, illustrates the difference between AA and Managing Diversity, "Think of management for a moment as an engine burning one form of gasoline. What's now going into the tank is no longer just this type of gas but now has an increasing percentage of a new form of gasoline. As this new gasoline builds, the engine will start to sputter and eventually it will stall. Unless we rebuild the engine, it will no longer burn the fuel we're feeding it. As the work force grows more and more diverse at the intake level, the talent pool we have to draw on for supervision and management will also grow increasingly diverse. So the question is: Can we burn this fuel? Can we get maximum power from the diverse work force we're now drawing into the system" (Thomas, 1994)? Affirmative action frequently gets blamed for failing to do things it was not designed to do. Affirmative action was designed to get new fuel into the tank, new people through the front door. It has been very successful in bringing more women and minorities into the

workforce. However, the environment needed for them to achieve success after getting in the front door has not been addressed. We need new assumptions and a changed workplace culture to create an environment where everyone can meet their maximum potential, everyone can achieve success. Corporations are beginning to learn to do this and to do it successfully by instituting Diversity Management.

Diversity Management no longer asks the question, "Are we hiring or promoting enough women and minorities?" So long as racial and gender equality is something we grant to someone, there will be no equality. What we must do is create an environment where "we" is everyone. The Diversity Management vision moves beyond the "granting of equality". It even moves beyond compromise where everyone agrees they are all equals and differences are negotiated. The compromise concept still sets up win/lose results that are often bad for people and business. **The ideal vision is one where individuality and differences are nurtured and respected and where they are understood as essential for productivity, creativity and efficiency.**

Why Diversity Management?

Diversity Management creates an environment where people feel respected and valued, which means they feel safe enough to share their feelings, thoughts and ideas. **Many studies have shown that employees will work harder, use less sick leave and stay with the agency longer when their opinions and ideas are valued, when their work is valued and rewarded, and when it is recognized that their different perspectives contribute to creative problem solving.**

Studies also show that Diversity Management has positive results that often translate into financial savings. Diverse work teams that do not operate in an environment where diversity is valued are average performers. But work teams that are diverse and do function in an environment where diversity is valued show improved performance over homogenous work teams.

- General Electric Company in Atlanta showed an 8% higher productivity rate when they diversified their work teams (Hayes, 1997).
- A 1993 study by Watson, Kumar and Michaelsen found that diverse groups (after they have been together for a period of time) "scored significantly higher on range of perspectives and alternatives generated" (Wheeler, 1995).
- A 1986 Business Week study reported that investment clubs composed of both women and men outperformed those with men only by almost 2% (Hayes, 1997).

Companies have also shown significant financial gains after diversifying:

- A Covenant Investment Management study rated the performance of the Standard & Poor's 500 companies on factors relating to the hiring and advancement of women and minorities. Companies which rated in the bottom 100 on glass ceiling related measures earned an average of 7.9% return on investment. Companies that were in the top 100 earned an average of 18.3% return on their investment (The Glass Ceiling Commission, 1995).

- A 1993 Wall Street Journal article cited a study showing companies with good records of recruitment and retention of women and people of color also had stock prices that were about 10% higher than those with poor recruitment and retention (Hayes, 1997).
- A 1994 research study by Robert Hayes examined the relationship between the financial performance and excellence in diversity in the food industry. The correlation between financial performance and diversity increased over time, from an insignificant .32 after 1 year to a significant .79 after 5 years (Hayes, 1997).

The cost of employee turnover can be expensive. Savings in this area can contribute to a healthy financial performance or to a wise use of taxpayer dollars. A workplace that values diversity is one that retains staff.

- The Glass Ceiling Commission cites studies showing that turnover costs range between 150% and 193% of a manager's or professional's salary, and 75% of a lower level employee's salary (The Glass Ceiling Commission, 1995).
- Corning reported that turnover of women and minorities was more than double that of white males during the period 1980 and 1987. They estimate that these turnover costs were between \$2M and \$4M per year (The Glass Ceiling Commission, 1995 and Managing Diversity, 1996).
- Ortho Pharmaceuticals reported a \$500,000 savings from reducing minority employee turnover (Wheeler, 1995).

Other benefits from a diverse staff that is managed well include the following:

- Increased employee incentive
- Improved morale
- Decreased absenteeism
- Improved problem solving
- Better client relations
- Improved customer loyalty
- Increased cooperation
- New ideas for upper management
- Performance-based success criteria
- More effective job assignments and evaluations
- Enhanced loyalty
- Better qualified staff
- Reduced conflict

Key Elements of a Diversity Management Policy

Many corporations and government agencies work hard at diversity with many adopting a strong Diversity Management Policy. Some are more successful than others. After extensive research, the Commission suggests that a Diversity Management policy that includes the following will be the most successful:

- Management leadership, commitment and support.
- Integration of Diversity Initiatives into all business and organizational objectives.

- A long term vision (results will not happen quickly).
- Commitment of adequate financial resources.
- Communication and continuing dialogue among all employees.
- Education and training (half day seminars just won't do).
- Accountability with consequences, especially for senior and mid-level management.
- Emphasis on a broad definition of diversity: *all* the ways in which we differ.
- Seamless integration of Diversity Management principles into all aspects of the organization, including:
 - Re-design of structures to support diversity
 - Re-design of systems to support diversity
- Involvement of employee representatives throughout the planning and implementation stages.

RECOMMENDATIONS

1. Adopt a new Diversity Management Policy as defined above.
2. Hire a temporary consultant to help develop a new countywide Diversity Management Program along with survey and assessment instruments.
3. Conduct a baseline survey of employees, customers, and the community to determine how well the County is performing in meeting diversity related objectives, employee needs and productivity/efficiency measures.
4. Develop a long term strategic plan and vision identifying outcome measures for diversity integrated with business objectives.
5. Develop and implement a "Quality Initiative" to change the County Culture from a top down culture to one where teams are empowered to come with solutions and make decisions.
6. Establish performance expectations for management and employees to implement the values of diversity and equity and to evaluate performance.
7. Maintain a results oriented Affirmative Action Plan and Equal Employment Opportunity Program designed to ensure equal opportunity for all and representation of qualified minorities, women and persons with disabilities throughout the total work force. Such plan shall meet federal requirements and assist in evaluating the effectiveness of the county's diversity management policy.
8. Conduct an analysis every three years to examine work force retention: who leaves and why. This is essential in reducing turnover costs and taking positive steps in retaining an effective work force.
9. Conduct an analysis every two years on the cost to promulgate and manage current Affirmative Action policies and the cost of employment related discrimination complaints. Maintain a tracking system of these costs for periodic reviews.

10. Conduct a wage/salary study to compare rates of pay between all employees to determine whether inequitable rates exist for employees holding comparable positions.
11. Make improvements to OHRM's CAAMS system to eliminate the need for manual input and to provide the following data: tracking of temporary employees; tracking of persons with disabilities; and tracking of white males in the work force.
12. Authorize and provide adequate funding to support the above recommendations. Consider this a priority with the expectation that the County will save money over time while increasing efficiency and productivity.

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